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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 GALE SOSTEK ET AL

12 Plaintiff,

13 v.

14 COUNTY OF SAN BERNARDINO

15 ET AL, Defendant.
16
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Case No. EDCV 23-02236-SPG-MAR

**STANDING ORDER FOR
NEWLY ASSIGNED CIVIL CASES**

18 **READ THIS ORDER CAREFULLY. IT CONTROLS THIS CASE**
19 **AND DIFFERS IN SOME RESPECTS FROM THE LOCAL RULES.**

20 This case has been assigned to United States District Judge Sherilyn Peace
21 Garnett.¹ Both the Court and all counsel bear responsibility for the progress of
22 litigation in this Court. “Counsel,” as used in this Order, includes attorneys and
23 parties who have elected to appear without an attorney and are representing
24 themselves in this civil litigation (hereinafter referred to as “Pro Se Litigants”). To
25 secure the just, speedy, and inexpensive determination of every action, all counsel
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27 ¹ Judge Garnett periodically updates this Order so make sure you are reviewing the
28 latest copy of the Order.

are ordered to comply with this Order, the Federal Rules of Civil Procedure, and the Local Rules of the Central District of California. *See* Local Rules 1-3 and 83-2.2.3.

**UNLESS OTHERWISE ORDERED BY THE COURT, THE FOLLOWING
RULES SHALL APPLY:**

A. GENERAL REQUIREMENTS

1. Service of Order. Counsel for the plaintiff must immediately serve this Order on all parties, including any new parties to the action. If this case was removed from state court, the defendant that removed the case must serve this Order on all other parties.

2. Pro Se Litigants. Only individuals may represent themselves. A corporation or other entity must be represented by counsel. If counsel seeks to withdraw, counsel must advise the entity of the dire consequences of failing to obtain substitute counsel before seeking withdrawal—i.e., a plaintiff entity's case will be dismissed or a defendant entity will default. *See* Local Rule 83-2.3.4. The following links may be helpful to Pro Se Litigants: (a) General information on how parties may represent themselves in civil cases in the Central District of California can be found at <https://prose.cacd.uscourts.gov/>; (b) Local Civil Rules for the Central District of California can be found at <http://www.cacd.uscourts.gov/court-procedures/local-rules>;

(c) Federal Rules of Civil Procedure can be found at <https://www.law.cornell.edu/rules/frcp>.

3. Presence of Lead Trial Counsel. Lead trial counsel shall attend all proceedings set by this Court, including scheduling, settlement, and pretrial conferences, as well as trials. Lead trial counsel must be prepared to address and resolve all matters within the scope of the proceeding. Only one attorney for a party may be designated as lead trial counsel unless otherwise permitted by the Court. If a second lead trial counsel is permitted by the Court, both counsels must attend the pretrial conference. To provide more experience to the next generation of

1 practitioners, the Court encourages lead trial counsel to permit junior counsel to fully
 2 participate in Court proceedings, including to argue motions and to examine
 3 witnesses at trial.

4 **4. Counsel Calendar Conflicts.** If any counsel discovers a calendar
 5 conflict with a scheduled appearance, counsel must inform opposing counsel and the
 6 Court's courtroom deputy (CRD) via Chambers email at
 7 SPG_chambers@cacd.uscourts.gov as soon as possible and not later than three days
 8 before the scheduled appearance. Counsel should attempt to agree on a new date to
 9 accommodate the calendar conflict. Counsel must propose a new date by Stipulation
 10 and Proposed Order. A "Notice of Unavailability" has no legal effect and should
 11 not be filed. The Court expects that counsel will conduct themselves professionally
 12 and will not deliberately schedule any proceeding when counsel are unavailable.

13 **5. Communications with Chambers.**

14 Neither counsel nor a party shall initiate contact with the Court or its
 15 Chambers staff by telephone, or by any other improper ex parte means. Counsel
 16 may contact the CRD with appropriate inquiries. Contacting the CRD to inquire
 17 about the status of a ruling or to continue a proceeding is not appropriate. The
 18 preferred method of communication with the CRD is by email at
 19 SPG_chambers@cacd.uscourts.gov. **Counsel must copy all parties on any such**
 20 **email.** To facilitate communication with the CRD, counsel should list their email
 21 addresses along with their telephone numbers on all papers.

22 **6. Civility.** All counsel who appear in this action must immediately
 23 review and comply with the Civility and Professionalism Guidelines, which can be
 24 found on the Court's website at
 25 [http://www.cacd.uscourts.gov/attorneys/admissions/civility-and-professionalism-](http://www.cacd.uscourts.gov/attorneys/admissions/civility-and-professionalism-guidelines)
 26 [guidelines.](http://www.cacd.uscourts.gov/attorneys/admissions/civility-and-professionalism-guidelines) The Court expects everyone in the courtroom to treat each other with
 27 dignity and respect. At a minimum, the Court expects the following from counsel:
 28 (1) Being punctual and prepared for all court appearance; (2) being civil and

1 respectful in all oral and written communications with the Court and other parties;
 2 (3) being civil and respectful to court personnel, including the Court Room Deputy
 3 (CRD), court reporters, law clerks, and marshals; (4) refraining from interrupting
 4 any person in the courtroom when that person is speaking; (5) refraining from
 5 making gestures, facial expressions, or audible comments indicating approval or
 6 disapproval of testimony or argument; and (6) being considerate of the time
 7 constraints and pressures on the Court and court staff inherent in their efforts to
 8 administer justice.

9 **B. PLEADINGS REQUIREMENTS**

10 **1. Service of the Complaint.** The Plaintiff(s) shall promptly serve the
 11 Complaint in accordance with Fed. R. Civ. P. 4 and file the proofs of service pursuant
 12 to Fed R. Civ. P. 4(l). Any Defendant(s), including “DOE” or fictitiously-named
 13 Defendant(s), not served within 90 days after the case is filed shall be dismissed
 14 pursuant to Fed. R. Civ. P. 4(m) and by operation of this Order without further
 15 notice, unless plaintiff requests and justifies the need for additional time in the joint
 16 report and the Court grants an extension.

17 **2. Removed Actions.** Any Answers filed in state court must be refiled in
 18 this Court as a supplement to the Notice of Removal. Any pending motions must be
 19 re-noticed in accordance with Local Rule 7. If an action removed to this Court
 20 contains a form pleading, i.e., a pleading in which boxes are checked, the party or
 21 parties that filed the form pleading must file in this Court within thirty (30) days of
 22 receipt of the Notice of Removal a revised pleading that complies with Fed. R. Civ.
 23 P. 7, 7.1, 8, 9, 10 and 11. An amended complaint filed within 30 days after removal
 24 to replace a form complaint pursuant to this instruction shall be deemed an amended
 25 complaint with “the court’s leave” pursuant to Fed. R. Civ. P. 15(a)(2).

26 **3. Status of Fictitiously Named Defendants.**
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1 (a). Plaintiff must identify and serve any fictitiously named or “Doe”
 2 defendant(s) before the deadline set forth in the Court’s Order Setting Scheduling
 3 Conference.

4 (b). Before moving to substitute a defendant for a Doe defendant,
 5 plaintiff must seek the consent of counsel for all defendants, including counsel for a
 6 represented Doe defendant. If denied consent, plaintiff must file a regularly noticed
 7 motion. In diversity cases, plaintiff’s motion must address whether the addition of
 8 the newly named party destroys diversity jurisdiction. *See* 28 U.S.C. § 1447(c), (e).

9 **C. FILING REQUIREMENTS**

10 **1. Electronic Filing.** Pursuant to Fed. R. Civ. P. 5(d)(3), Local Rule 5-4,
 11 and General Order 10-07, counsel shall electronically file (“e-file”) all filings. Items
 12 that do not require the Court’s signature shall be e-filed in pdf format. Proposed
 13 orders shall be e-filed in pdf format as an attachment to the main documents. Pro Se
 14 Litigants may submit documents for filing through the Court’s Electronic Document
 15 Submission System (EDSS) instead of mailing or bringing documents to the Clerk’s
 16 Office. Only internet access and an email address are required. Documents are
 17 submitted in PDF format through an online portal on the Court’s website. To access
 18 EDSS and for additional information, visit the Court’s website at
 19 <https://apps.cacd.uscourts.gov/edss>.

20 **2. Documents with Declarations, Exhibits, and other Attachments.** If
 21 a filed or lodged document has declarations, exhibits, or other attachments, each
 22 attachment must be filed as a separately docketed attachment to the main docket
 23 entry with a description of the attachment (e.g., Dkt. 29-1 Smith Declaration, 29-2
 24 Ex. 1 - License Agreement, 29-3 Request for Judicial Notice). The Court may strike
 25 or decline to consider motions, stipulations, or other documents with attachments
 26 that are not filed in accordance with this Order.

27 **3. Proposed Orders.**
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1 **(a) Proposed Orders Must be Lodged and Served:** Each party
 2 filing or opposing a motion or seeking the determination of any matter shall serve
 3 and lodge a proposed order setting forth the relief or action sought and a brief
 4 statement of the rationale for the decision with appropriate citations.

5 **(b) Use Applicable Templates.** Use the “Proposed Order” template
 6 located on the Court’s website under “Orders & Additional Documents” at the
 7 bottom of the webpage. ([http://www.cacd.uscourts.gov/honorable-sherilyn-peace-](http://www.cacd.uscourts.gov/honorable-sherilyn-peace-garnett)
 8 [garnett](http://www.cacd.uscourts.gov/honorable-sherilyn-peace-garnett)). Failure to do so may result in the striking of the request. Proposed orders
 9 must be on pleading paper. Proposed orders should NOT contain any of the
 10 following: (1) attorney names, addresses, etc. on the caption page; (2) a footer with
 11 the document name or other information; or (3) a watermark or designation of the
 12 firm name. Proposed orders should be formatted in the same fashion as motions.
 13 *See infra* paragraph G.4.

14 **(c) Email Proposed Orders to Chambers.** The Court enforces
 15 strict compliance with Local Rule 5-4.4.2, which instructs: “After a document
 16 requiring a judge’s
 17 signature has been lodged in accordance with L.R. 5-4.4.1 . . . , a Microsoft Word
 18 copy of the proposed document, along with a PDF copy of the electronically filed
 19 main document, shall be e-mailed to the assigned judge’s generic chambers e-mail
 20 address using the CM/ECF System,” namely, SPG_chambers@cacd.uscourts.gov.
 21 The Court will not consider a stipulation, ex parte application, or other request for
 22 relief until a compliant proposed order is received by email. If the proposed order
 23 is based on a stipulation or an ex parte application, counsel must email both the order
 24 and the stipulation or ex parte application. Otherwise, accompanying documents
 25 (such as motions) should not be emailed to Chambers.

26 **4. Mandatory Chambers Copies:**

27 **(a) Motions, Pleadings, and Trial Documents.** The parties must
 28 provide one (1) Mandatory Chambers Copy *only of* Motions for Summary Judgment

1 filings. Please do not send paper copies of any other documents unless requested by
2 the Court.

3 **(b) Delivery Location, Timeliness, and Form.** All Mandatory
4 Chambers Copies must be delivered to Judge Garnett's chambers copy box, which
5 is located outside of the Clerk's Office on the fourth floor of the courthouse.
6 Mandatory Chambers Copies must be delivered no later than 12:00 p.m. (noon) the
7 following business day after the document is electronically filed. "Mandatory
8 chambers copies must be printed from CM/ECF, and must include: (1) the CM/ECF-
9 generated header (consisting of the case number, document control number, date of
10 filing, page number, etc.) at the top of each page; and (2) the NEF [notice of
11 electronic filing] (*see* L.R. 5-3.2.1) as the last page of the document." Local Rule 5-
12 4.5 (emphasis added). Mandatory Chambers Copies need not be bluebacked. For
13 security reasons, do not leave chambers copies in envelopes or folders.

14 **(c) Mandatory Chambers Copy Exhibits.** All exhibits should be
15 separated by a tab divider on the right or bottom of the document. If the evidence
16 exceeds 50 pages, the Mandatory Chambers Copy must: (1) include a table of
17 contents; and (2) be in a tabbed binder with each exhibit separated by a tab divider
18 on the right or the bottom. All documents in the binder must be three-hole punched,
19 preferably with a larger hole size (13/32"), rather than the standard hole size (9/32"),
20 to facilitate ease of review. If the evidence exceeds 200 pages, the table of contents
21 and evidence must be placed in a Slant D-Ring binder. Binders should be no larger
22 than 4 inches. Binders must have both a cover sheet and a spine label that includes
23 the case name, case number, and a description of the contents.

24 **5. Filings Under Seal.**

25 **(a) Local Rule 79-5.** Local Rule 79-5 governs applications to file
26 under seal. Parties must comply with all sections of Local Rule 79-5. There is a
27 "strong presumption of access to court records" in civil cases. *Foltz v. State Farm*
28 *Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003). For each document or

1 other type of information a party seeks to file under seal, the party must identify and
 2 discuss the factual and/or legal justification, see (c) below, that establishes “good
 3 cause” or “compelling reasons” for the document’s protection. *Kamakana v. City*
 4 *and Cnty. of Honolulu*, 447 F.3d 1172, 1179-80 (9th Cir. 2006).

5 **(b) Redacted Version and Unredacted Version.** Documents that
 6 are not confidential or privileged in their entirety should not be filed under seal if
 7 the confidential portions can be redacted and filed separately with a reasonable
 8 amount of effort. The parties should file an unredacted version of the document
 9 under seal, and a redacted version for public viewing, omitting only the portions that
 10 the Court has ordered may be filed under seal.

11 **(c) Justification.** Sealing must be justified for each individual
 12 confidential matter; blanket claims of confidentiality will result in the application to
 13 seal being denied. Counsel is strongly encouraged to consider carefully whether
 14 sealing or redaction is required for a given piece of evidence or argument. An
 15 application to seal that includes clearly meritless requests to seal or redact documents
 16 may be denied in its entirety. The parties must also meet and confer before filing an
 17 application to seal.

18 **D. CONSENT TO MAGISTRATE FOR ENTIRE CIVIL CASE**

19 The parties may consent to have a Magistrate Judge preside over the entire
 20 civil case, including trial, rather than just discovery. One benefit to giving such
 21 consent is that the parties almost always will be able to proceed to trial sooner than
 22 on a District Court Judge’s calendar. Additionally, the parties are free to select from
 23 among all Magistrate Judges available for this purpose, not just the Magistrate Judge
 24 assigned to the parties’ case. The Magistrate Judges have experience and expertise
 25 in a variety of areas, including patent and trademark litigation. If the parties agree
 26 to consent to proceed before a Magistrate Judge, the parties should consult the
 27 Central District website for the list of available Magistrate Judges and should submit
 28 the appropriate consent form.

1 **E. DISCOVERY**

2 **1. Magistrate Judge Referral for All Discovery Matters.** All discovery
3 matters are referred to the assigned United States Magistrate Judge. The Magistrate
4 Judge's initials follow the Judge's initials next to the case number. All documents
5 relating to discovery matters must include the words "DISCOVERY MATTER" in
6 the caption to ensure proper routing. Counsel should not deliver chambers copies of
7 discovery matters. Counsel must follow the Magistrate Judge's procedures for
8 scheduling matters for hearing. These procedures are stated on each Magistrate
9 Judge's webpage.

10 **2. Limited District Court Review of Discovery Matters.** The decision
11 of the Magistrate Judge on all discovery matters shall be final, subject to limited
12 review requiring a showing that the decision is clearly erroneous or contrary to law.
13 *See* 28 U.S.C. § 636(b)(1)(A). Any motion for review of a Magistrate Judge's
14 decision must be noticed before the District Court Judge within fourteen (14) days
15 of service of the Magistrate Judge's written ruling, or within fourteen (14) days of
16 an oral ruling that the Magistrate Judge states will not be followed by a written
17 ruling. The motion must specify which portions of the ruling are clearly erroneous
18 or contrary to law, and the claim must be supported by points and authorities.
19 Counsel shall provide the Magistrate Judge chambers copies of the moving papers
20 and responses.

21 **3. Timing of Discovery.** Unless there is a likelihood that, upon motion
22 by a party, the court would order that discovery be stayed, the parties should begin
23 to propound discovery
24 before the Scheduling Conference. The parties must comply fully with the letter and
25 spirit of Fed. R. Civ. P. 26(a) and produce discovery promptly. At the Scheduling
26 Conference, the court will impose firm deadlines governing the completion of
27 discovery.
28

1 **4. Discovery Protective Orders.** Proposed protective orders for
 2 discovery
 3 must be submitted to the assigned Magistrate Judge. Such orders should not purport
 4 to allow, without further order of the Court, the filing under seal of pleadings or
 5 documents filed in connection with a dispositive motion, a class certification motion,
 6 or trial before the Court. The existence of a protective order does not alone justify
 7 the filing of pleadings or other documents under seal, in whole or in part.

8 **F. SCHEDULING CONFERENCE**

9 Pursuant to Fed. R. Civ. P.16(b), the Court will issue an Order Setting
 10 Scheduling Conference. The parties are required to strictly comply with Fed. R. Civ.
 11 P. 16 and 26, as well as this Court's Orders.

12 **G. MOTIONS – GENERAL REQUIREMENTS APPLICABLE TO ALL**
 13 **MOTIONS**

14 **1. Local Rule 7-3 Pre-Filing Meet and Confer Requirement.**

15 **(a) Scope.** The Court strictly enforces Local Rule 7-3, which
 16 requires counsel to engage in a prefiling conference “to discuss thoroughly . . . the
 17 substance of the contemplated motion and any potential resolution.” This
 18 requirement applies in all cases, including those with Pro Se Litigants. This Court
 19 requires parties through Counsel to meet and confer about any potentially disputed
 20 matter (except those identified in Local Rules 7-3 and 16-12) before presenting it to
 21 the Court, including requests to continue any matter, applications to file under seal,
 22 and other filings seeking a court order. The purpose of meeting and conferring is to
 23 attempt to obviate the need for a motion and thus avoid unnecessary Court
 24 intervention. If the parties are unable to fully resolve the dispute, they shall attempt
 25 to narrow the scope of contested issues. Counsel must meet and confer in good faith.

26 **(b) Method.** Parties must meet and confer either by
 27 videoconference or in person. Email correspondence is insufficient.
 28

1 **(c) Compliance Statement Required.** The moving party must
 2 include in the signed notice of motion a truthful representation of full compliance
 3 with Local Rule 7-3, stating that the parties “thoroughly discussed the substance and
 4 potential resolution of the filed motion [by videoconference or in person].”

5 **(d) Non-Compliance.** If an opposing party refuses to participate in
 6 good faith, the moving party shall explain the refusal in detail. Failure by any party
 7 to comply in good faith with the “meet and confer” requirement may result in an
 8 order to show cause re: sanctions—including, as appropriate, striking or denying the
 9 motion, deeming the motion unopposed, and/or awarding monetary sanctions.

10 **2. Scheduling Motions Hearings:** Motions must be filed in accordance
 11 with Local Rules 6 and 7. Judge Garnett hears civil motions on Wednesdays
 12 beginning at 1:30 p.m. It is not necessary to clear a hearing date with the CRD
 13 before filing a motion. Immediately before filing the motion, parties must check the
 14 closed motion dates column located on the right side of Judge Garnett’s Procedures
 15 and Schedules Page on the Court’s website to make sure the hearing date has not
 16 been closed. The closed date column is typically updated on a weekly and
 17 sometimes daily basis. If a motion is noticed for a date that is not available, the
 18 Court may strike or reset the motion.

19 **3. Briefing Schedule.** To allow Chambers enough time to prepare, the
 20 parties must adhere to the briefing schedule set forth in Local Rule 7-9 and 7-10 for
 21 all motions, except Rule 56 motions. For Rule 56 motions, the parties should review
 22 and comply with Judge Garnett’s Standing Order For Motions for Summary
 23 Judgment. When scheduling motion hearing dates, professional courtesy dictates
 24 that the parties should accommodate each other’s schedules, including vacation and
 25 holiday schedules, whenever possible.

26 **4. Length and Format of Motion Papers.** Memoranda of points and
 27 authorities in support of or in opposition to motions shall not exceed twenty-five
 28 (25) pages. Replies shall not exceed fifteen (15) pages. Only rarely and for good

cause shown will the Court grant an application to extend these page limitations. Pursuant to Local Rule 11-3.1.1, either a proportionally spaced or monospaced face may be used. Typeface shall comply with Local Rule 11-3.1.1. Times New Roman font must be no less than 14 point; Courier font must be no less than 12 point. Footnotes shall be in the same font and the same size as the body of the memorandum. Counsel shall adhere to Local Rule 5-4.3 with respect to the conversion of all documents to .pdf format so that when a document is electronically filed, it is in proper size and is .pdf searchable. Further, all documents shall be filed in a format so that text can be selected, copied, and pasted directly from the document. See Local Rule 5-4.3.1.

5. Citations to Authority. Statutes should be cited in accordance with the Bluebook. Citations that support a statement in the main text must be included in the main text, not in footnotes.

(a) Case citations. Case citations must identify both the case cited and the specific page referenced. Parties should not use string cites without a good reason. When using string cites, a party should include a parenthetical explanation for each cited case. When citing to legal databases (which is not encouraged), cite to Westlaw whenever possible.

(b) Statutory references. Statutory references should identify with specificity the sections and subsections referenced. Citations should be to the relevant official statutory code (e.g., the U.S. Code) and should not merely reference the popular name of an act.

(c) Citations to Other Sources. Citations to treatises, manuals, and other materials should include the volume, section, and relevant pages. Attach copies if these materials are not accessible on Westlaw, especially for historical materials (e.g., older legislative history).

H. MOTIONS - SPECIFIC REQUIREMENTS

1 **1. Motions Pursuant to Federal Rule of Civil Procedure 12:** Many
 2 motions to dismiss or strike can be avoided if the parties confer in good faith as
 3 required by Local Rule 7-3, especially for perceived defects in a complaint, answer,
 4 or counterclaim that can be corrected by amendment. *See Polich v. Burlington N.,*
 5 *Inc.*, 942 F.2d 1467, 1472 (9th Cir. 1991) (noting that where a motion to dismiss is
 6 granted, a district court should grant leave to amend unless it is clear the complaint
 7 cannot be saved by amendment). Moreover, a party has the right to amend the
 8 complaint “once as a matter of course at any time before a responsive pleading is
 9 served.” Fed. R. Civ. P. 15(a). Even after a complaint has been amended or a
 10 responsive pleading has been served, the Federal Rules of Civil Procedure provide
 11 that leave to amend should be “freely given when justice so requires.” Fed. R. Civ.
 12 P. 15(a). Indeed, the Ninth Circuit requires that this policy favoring amendment be
 13 applied with “extreme liberality.” *Morongo Band of Mission Indians v. Rose*, 893
 14 F.2d 1074, 1079 (9th Cir. 1990). Consequently, parties should carefully consider
 15 and weigh an opponent’s contentions as to the deficiencies in a pleading to determine
 16 if an amendment would cure the defects. The moving party, in turn, should agree to
 17 any amendment that would cure the defect.

18 **2. Motions to Amend:** In addition to the requirements of Local Rule 15-
 19 1, all motions to amend pleadings shall: (1) state the effect of the amendment; (2) be
 20 serially numbered to differentiate the amendment from previous amendments; and
 21 (3) state the page and line number(s) and wording of any proposed change or
 22 addition of material. Counsel shall electronically file a “Notice of Lodging”
 23 attaching the proposed amended pleading as a document separate from the motion,
 24 as well as a “redlined” version of the proposed amended pleading identifying all
 25 additions and deletions of material as an appendix to the moving papers.
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 27
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1 **3. Motions and Stipulations to Continue.** Continuances are granted
2 only on a showing of good cause. Requests for continuances must be made *before*
3 the date to be continued and by motion or stipulation, along with a proposed order.
4 Motions and stipulations must be accompanied by a detailed declaration setting forth
5 the specific reasons for the requested continuance. The declaration also should state
6 whether there have been any previous requests for continuances; whether these
7 requests were granted or denied by the Court; what efforts were made to meet the
8 existing deadline; and what, if any, prejudice would result if the request is denied.
9 Stipulations extending dates set by this Court are not effective unless approved by
10 the Court. Continuances will not be granted routinely.

11 **4. Motions In Limine:** Motions in limine shall be noticed for hearing not
12 later than four (4) weeks before the Final Pretrial Conference date.

13 **5. Daubert Motions:** *Daubert* motions shall be noticed for hearing not
14 later than eight (8) weeks before the Final Pretrial Conference date.

15 **6. Motions for Class Certification:** If this action is a putative class
16 action, the parties are to act diligently and begin discovery immediately, so that the
17 motion for class certification can be filed expeditiously. This Court requires an
18 extended briefing schedule for motions for class certification. Parties are advised to
19 refer to the Court's Scheduling Order for additional guidance as to filing and timing
20 of motions for class certification.

21 **7. Motions Pursuant to Federal Rule of Civil Procedure 56 (Summary**
22 **Judgment/Summary Adjudication Motions):**

23 For the requirements specific to Rule 56 motions, the parties shall refer to the
24 Court's Standing Order For Motions for Summary Judgment located on the Court's
25 website. (<http://www.cacd.uscourts.gov/honorable-sherilyn-peace-garnett>). The
26 parties are expected to comply with all the Court's requirements.

27 **8. Motions for Attorneys' Fees:** Motions for attorneys' fees shall be
28 electronically filed and set for hearing according to Local Rule 6-1 and this Order.

Any motion or request for attorneys' fees shall attach two summaries, in table form, of the hours worked by and billing rate of each attorney with title (e.g., partner, counsel, associate, etc.). The first table shall include a summary of the hours worked by each attorney, organized by task (e.g., discovery, motion to dismiss, motion for summary judgment). The second table shall include a summary of the hours worked by each attorney, organized by attorney. Both tables shall list all the tasks on which the attorney worked, the hours worked on each task, and the hourly rate of each attorney. If the hourly rate charged by any individual attorney changed while the action was ongoing, the party shall provide separate calculations for the total number of hours the attorney spent in connection with each task at each hourly rate. All tables shall be attached to the motion and electronically filed. The courtesy copies of the tables shall be prepared in Excel, have all restrictions removed so the spreadsheets can be edited, and be emailed to the Court's chambers email address at SPG_Chambers@cacd.uscourts.gov.

9. PLRA Exhaustion Motions. The issue of exhaustion under the Prison Litigation Reform Act (PLRA) must be raised at the beginning of the litigation. *Albino v. Baca*, 747 F.3d 1162, 1170 (9th Cir. 2014). A party seeking to obtain a judicial determination of any material fact dispute precluding summary judgment on the exhaustion issue must file before this Court a request for a hearing within fourteen (14) days of the filing of the order denying summary judgment. The failure to file a timely request may be construed as a waiver of the exhaustion issue.

I. HEARINGS

1. Oral Argument Time Limits. If oral argument is permitted, the parties will have a ten (1) minutes each for oral argument, unless the Court states

1 otherwise. If the Court believes that the matter warrants less or more time, it will
2 advise counsel at the hearing.

3 **2. Submission Without Oral Argument.** Pursuant to Fed. R. Civ. P. 78
4 and Local Rule 7-15, the Court may deem a matter appropriate for decision without
5 oral argument. If the Court does so, it will notify the parties before the hearing.

6 **3. Remote Appearances.** Remote appearances are disfavored absent
7 good cause shown in a declaration concurrently filed with the moving papers or the
8 opposition.

9 **4. Telephonic Hearings.** The Court seldom permits telephonic
10 appearances. The Court strongly prefers counsel to appear in person for motion
11 hearings and pretrial and settlement conferences. If exceptional circumstances exist,
12 counsel may file an application to appear telephonically detailing such circumstance.

13 **5. Settlement.** Counsel must notify the Court at least two weeks before
14 the scheduled hearing if the parties are conducting settlement discussions that may
15 render the **motion moot and must notify the Court immediately if a settlement is**
16 **reached. A belated notice of settlement wastes scarce judicial resources.**

17 **J. EX PARTE APPLICATIONS (INCLUDING TEMPORARY**
18 **RESTRAINING ORDERS AND APPLICATIONS FOR INJUNCTIVE**
19 **RELIEF).**

20 **1. Ex Parte Applications Generally:** Applications seeking ex parte
21 relief, whether based on lack of notice and/or a request for an expedited briefing
22 schedule, are highly disfavored if due to lack of diligence, a crisis of the applicant's
23 own making, or an unwillingness to work through procedural issues with an
24 opposing party. *See Mission Power Engineering Co. v. Continental Casualty Co.*,
25 883 F. Supp. 488 (C.D. Cal. 1995). Parties are encouraged to meet, confer, and
26 resolve procedural issues. If with the exercise of due diligence, compliance with the
27 applicable briefing schedule, and adherence to the Court's scheduling order, a
28 hearing is not available on the Court's calendar *prior to an impending deadline*, a

1 party may file a stipulation/ex parte application and propose a hearing date. The
2 parties should not assume that an unopposed ex parte application will be granted;
3 and a last-minute application (or stipulation) that is denied will not serve to relieve
4 a party of an underlying obligation (e.g., a soon-to-expire deadline).

5 **2. Ex Parte Applications for TROs:** An ex parte application for a
6 temporary restraining order or preliminary injunction under Fed. R. Civ. P. 65, seeks
7 an “extraordinary remedy that may only be awarded upon a clear showing that the
8 plaintiff is entitled to such relief.” *Winter v. NRDC, Inc.*, 555 U.S. 7, 22 (2008)
9 (citation omitted). Such applications must comply with Local Rule 7-19 (and Local
10 Rule 65 for temporary restraining orders and preliminary injunctions). The moving
11 party must serve the opposing party by email, fax, or personal service, and notify
12 that party that opposing papers must be filed not later than forty-eight (48) hours
13 following service or by 3:00 p.m. on the first court day after the service, whichever
14 is later, or certify pursuant to Rule 65 and Local Rule
15 65-1 the efforts made to give notice and reasons why it should not be required under
16 the circumstances. The opposing party should advise the CRD as soon as possible
17 whether it intends to oppose the ex parte application. For TROs, the parties must
18 provide Mandatory Chambers Copies of TRO-related documents on the same day
19 they are filed. The application will not be considered until a Mandatory Chambers
20 Copy has been provided. Unless the application presents a true emergency, the Court
21 generally will not rule on the application for relief for at least forty-eight (48) hours
22 (or two court days) after the party subject to the requested order has been served.

1 **K. OTHER MATTERS**

2 **1. Class Actions**

3 If this action is a putative class action, the parties are to act diligently and
4 begin discovery immediately so that the motion for class certification can be filed
5 expeditiously. A motion for class certification must be filed not later than 120 days
6 from the date initially set for the scheduling conference, unless the Court orders
7 otherwise.

8 **2. ERISA Cases (Benefits Claims)**

9 The Court will hear motions to determine the standard of review, whether
10 discovery will be permitted, and the scope of the administrative record. Counsel are
11 discouraged from filing motions for summary judgment or partial summary
12 judgment on any other issue. If they choose to do so, they must distinguish *Kearney*
13 *v. Standard Insurance Co.*, 175 F.3d 1084, 1093-95 (9th Cir. 1999) (en banc) in the
14 moving papers and explain why summary judgment is not precluded. The parties
15 may receive a scheduling conference order as a matter of course. Because the
16 ordinary pretrial and trial schedule does not apply to these ERISA cases, the parties
17 need only submit a joint status report identifying any special issues that should be
18 considered. The parties should proceed with the preparation of the administrative
19 record and briefing without delay upon service of the complaint. A court trial,
20 ordinarily limited to oral argument on the administrative record, will be scheduled
21 within six (6) months from the filing of the original complaint, unless good cause
22 for additional time is shown in the status report. If the Court concludes that the
23 decision would not benefit from oral argument, the matter may be submitted for
24 decision on the papers.

25 **3. Bankruptcy Appeals.** Counsel must comply with the Notice
26 Regarding Appeal from Bankruptcy Court issued at the time the appeal is filed in
27 the district court. The matter is deemed under submission on the filing of the
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1 appellant's reply brief. The Court considers bankruptcy appeals on the papers and
2 usually does not set these matters for hearing.

3 **L. CONSEQUENCES FOR NONCOMPLIANCE WITH THIS ORDER.**

4 If, without satisfactory explanation, counsel fail to file the required Joint Rule
5 26(f) Report or the required pretrial documents, fail to appear at any scheduled
6 proceeding, or otherwise fail to comply with the Court's Orders or rules, the Court
7 shall take any action it deems appropriate, including: (i) dismissal of the case for
8 failure to prosecute, if the failure occurs on the part of the plaintiff; (ii) striking the
9 answer resulting in default if such failure occurs on the part of the defendant; and/or
10 (iii) imposing monetary sanctions against the offending party and counsel.

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12 **IT IS SO ORDERED.**

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14 DATED: November 3, 2023

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16 HON. SHERILYN PEACE GARNETT
17 UNITED STATES DISTRICT JUDGE
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